

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION)

MDL No.: 2419
Dkt. No.: 1:13-md-2419

THIS DOCUMENT RELATES TO:)

Judge Rya W. Zobel

All cases concerning Specialty Surgery Center,)
Kenneth R. Lister, M.D., and Kenneth Lister,)
M.D., P.C.)
_____)

SSC DEFENDANTS' STATEMENT OF UNDISPUTED MATERIAL FACTS

Defendants, Specialty Surgery Center, PLLC ("SSC"), Kenneth R. Lister, M.D. ("Dr. Lister"), and Kenneth Lister, M.D., P.C. ("Dr. Lister's Practice") (collectively "SSC Defendants"), submit this Statement of Undisputed Material Facts in Support of their Motion for Summary Judgment on the Plaintiffs' Claims for Strict Liability.

1. SSC was an ambulatory surgery center in Crossville, Tennessee, which was accredited by the Accreditation Association for Ambulatory Health Care, Inc. ("AAAHC"). 2nd Am. Master Compl., ¶ 22-23 [Docket No. 1719]; Deposition of Jean Atkinson, P. 211, L. 1-9.

2. Dr. Lister owned part of SSC. (Deposition of Kenneth R. Lister, M.D., P. 44, L. 8-10).

3. Dr. Lister is a board certified licensed anesthesiologist. (Deposition of Kenneth R. Lister, M.D., Exhibit 76).

4. Dr. Lister's Practice was a professional corporation. When Dr. Lister was paid by Medicare, the payments he received went through that professional corporation. (Deposition of Kenneth R. Lister, M.D., P. 13, L. 21-25; P. 14, L. 1-17).

5. The Plaintiffs sought care and medical treatment from SSC and Dr. Lister. 2nd Am. Master Compl., ¶ 151 [Docket No. 1719].

6. As part of that medical treatment, Dr. Lister administered methylprednisolone acetate ("MPA") procured by SSC from the New England Compounding Center ("NECC") into the epidural space of the Plaintiffs. See 2nd Am. Master Compl., ¶ 23, 153-154 [Docket No. 1719].

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be served electronically to the registered participants identified on the Notice of Electronic Filing and copies will be served via electronic mail or regular US mail to those participants identified as unregistered this the 19th day of May, 2016.

/s/ Parks T. Chastain
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